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AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1426*

House Bill No. 1037

by deleting the language after the enacting clause in its entirety, and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Title 9, Chapter 8, Part 3, is amended by adding a new section as follows:

(a) Whenever litigation in any grand division shall become backlogged, or delay in the disposition of litigation becomes imminent for any reason, the commission may, by unanimous vote, request the Governor to authorize the use of administrative law judges to assist in the removal of such backlog or delay. The request shall be accompanied with a certification of all cases upon the docket of the applicable grand division for which the commission is requesting assistance. The certification shall state for each case the names of the parties involved and the docket number assigned thereto. Upon an affirmative finding by the Governor that the presiding commissioner of the applicable grand division is unable to dispose of such pending cases within a reasonable time without causing delays in the other cases, the Governor may authorize the use of an administrative law judge and shall certify such request to the Secretary of State. Upon receipt of such certification, the Secretary of State is authorized, subject to budgetary constraints, to make available administrative law judges to assist the applicable claims commissioner in resolving cases which are a part of the certification. The Secretary of State is authorized to charge against the claims award fund the cost of providing this service. An administrative law judge so assigned shall meet the qualifications set forth for claims commissioners in §9-8-302(c); provided, however, the administrative law

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judge need not reside in the grand division in which the alleged wrongful act occurred or in which the claimant lives.

(b) Upon assignment, the administrative law judge may hear cases as certified by the Governor. Upon hearing of a matter, the administrative law judge shall draft a recommended order, including findings of fact and law, and submit such to the applicable claims commissioner for his approval or modification. The administrative law judges shall have all the powers of a claims commissioner in conducting hearings, provided the administrative law judge shall not be authorized to issue orders.

(c)(1) The use of administrative law judges hereunder shall be for a term of one (1) year, provided that their use may be extended by the Governor on a year by year basis upon an annual affirmative finding by the Governor that more time is necessary for the administrative law judges to complete the assignment. Their use shall terminate upon the earlier of any of the following events:

(A) the Governor determines, in the Governor's sole discretion, that the commissioner of the applicable grand division is able to dispose of the remaining pending cases without causing delays in other cases. Termination under this condition shall not affect any case in which an administrative law judge has scheduled or held a hearing; or

(B) the Secretary of State notifies the Governor and the commissioner of the applicable grand division that hearings have been conducted and recommendations prepared on all cases assigned.

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Immediately upon providing such notice, the use of administrative law judges shall cease.

SECTION 2. Tennessee Code Annotated, Section 9-8-302(c), is amended by designating the existing language as subdivision (1) and by adding the following at the end thereof as subdivision (2):

(2) In addition to the requirements of subdivision (c)(1), when a vacancy occurs on the commission by reason of death, resignation, expiration of term or other cause, the vacancy shall be filled by a person whose legal practice and experience includes the areas of workers' compensation, tort or governmental law. Consideration shall also be given to other desirable qualities such as integrity, intelligence and a positive temperament. The provisions of this subdivision shall not apply to any individual serving as a claims commissioner on the effective date of this act or to administrative law judges assigned to hear cases pursuant to Section 1 of this act.

SECTION 3. Implementation of the provisions of this act shall be subject to the funding being provided in the General Appropriations Act.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

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SECTION 5. This act shall take effect upon passage, the public welfare requiring it, and Section 1 of this act shall cease to be effective on June 30, 2002. For purposes of assigning administrative law judges, this act shall be effective on July 1, 1997.

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